

Applicant or Patentee: DANIEL ESBENSEN

Serial or Patent No.: \_\_\_\_\_

Filed or Issued: \_\_\_\_\_

For: METHOD AND APPARATUS FOR SURVEILLANCE USING AN IMAGE SERVER

Attorney's  
Docket No.: TOUC.022US2

**STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS**  
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN Touch Technologies, Inc.

ADDRESS OF CONCERN 9988 Hibert Street, Suite 310, San Diego, California 92131

I hereby declare that the above small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled: METHOD AND APPARATUS FOR RECEIVE OR TRANSMIT DATA ORDERING by inventor DANIEL ESBENSEN described in

- ☒ the specification filed herewith  
☐ application Serial No. \_\_\_\_\_, Filed Herewith  
☐ Patent No. \_\_\_\_\_, issued \_\_\_\_\_

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).  
\*NOTE: Separate statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_  
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_  
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this statement is directed.

NAME OF PERSON SIGNING Daniel Esbensen  
TITLE OF PERSON OTHER THAN OWNER President  
ADDRESS OF PERSON SIGNING 9988 Hibert Street, Suite 310, San Diego, CA 92131

SIGNATURE \_\_\_\_\_

DATE JAN 12, 2000

PATENT APPLICATION DECLARATION

(Attorney's Docket No.: TOUC.022US2)

I, DANIEL ESBENSEN, declare as follows:

1. My residence, post office address and country of citizenship given below are true and correct.

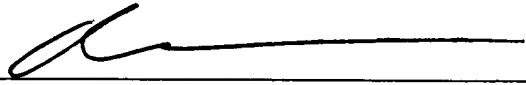
2. I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought in the attached patent application entitled "METHOD AND APPARATUS FOR SURVEILLANCE USING AN IMAGE SERVER," and I have reviewed and understand the contents of the specification, including its claims.

3. I acknowledge my duty to disclose to the Office all information known to me to be material to patentability of this application, in accordance with 37 C.F.R. Section 1.56, which is defined on the attached page.

4. This application is based on and claims priority from provisional application Serial No. 60/131,990, filed April 30, 1999.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: JAN 12, 2000

  
\_\_\_\_\_  
**DANIEL ESBENSEN**  
Residence and 2657 Mo'olio Place  
Post Office Address: Kihei, Hawaii 96753  
(Citizenship: U.S.)

## Section 1.56 Duty to Disclose Information Material to Patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )

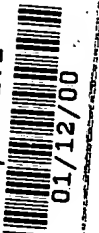
DANIEL ESBENSEN )

For: METHOD AND APPARATUS FOR )  
SURVEILLANCE USING AN IMAGE )  
SERVER )

San Francisco, California

Assistant Commissioner of Patents  
Washington, D.C. 20231

Jc542 U.S. PTO  
09/482181



POWER OF ATTORNEY BY ASSIGNEE

Sir:

The undersigned, having received the full right, title and interest in and to the accompanying patent application by way of a written assignment from Applicants, hereby appoints the practitioners of Majestic, Parsons, Siebert & Hsue P.C. who are associated with the Customer Number provided below to prosecute this patent application, to transact all business in the U.S. Patent and Trademark Office connected therewith, to receive the original Letters Patent, and to substitute or associate other attorneys on its behalf. I further direct that all correspondence be addressed to that Customer Number.

Customer No:



**020227**

PATENT TRADEMARK OFFICE

Assignee:

Touch Technologies, Inc.

Dated: JAN 12, 2000

(Atty. Docket: TOUC.022US2)

By: DANIEL ESBENSEN  
Title: PRESIDENT

CERTIFICATE UNDER 37 C.F.R. §3.73(b)

Applicants: DANIEL ESBENSEN

Serial No.: Not Yet Assigned

Filed: Herewith


For: METHOD AND APPARATUS FOR SURVEILLANCE USING AN IMAGE SERVER

TOUCH TECHNOLOGIES, INC., a corporation, certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventor of the patent application identified above. A copy of the assignment is attached.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: JAN 12, 2000

Signature:   
Name: DANIEL ESBENSEN  
Title: PRESIDENT